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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,098	02/17/2004	David J. Allard	BOC9-2003-0087 (458)	9891
40987	7590	08/07/2008		
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER RANGREJ, SHEETAL	
			ART UNIT	PAPER NUMBER
			3626	
			MAIL DATE	DELIVERY MODE
			08/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/780,098	<b>Applicant(s)</b> ALLARD ET AL.	
	<b>Examiner</b> SHEETAL R. RANGREJ	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

***Prosecution History Summary***

1. Claims 1 is amended.
2. Claims 5-15 and 19 are cancelled.
3. Claims 1-4 and 16-18 are pending.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/18/2008 has been entered.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker (6,988,075; hereinafter Hacker) in view of Kenneth D Mandl, Peter Szlovits, Isaac S Kohane, David Markwell, and Rhona MacDonald **Public standards and patients' control: how to keep electronic medical records accessible but private • Commentary: Open approaches to**

**electronic patient records • Commentary: A patient's viewpoint** BMJ, Feb 2001; 322: 283 – 287 (herein after Mandl).

7. As per claim 1, Hacker discloses a method of permitting controlled access to medical information comprising:

(1) establishing a storage means for storing the medical information of the patient  
(**Hacker: col. 7, lines 21-27**);

(2) establishing a means for accessing the medical information by the patient or any other authorized user (**Hacker: col. 7, lines 56-66**).

(3) assigning each user with a unique ID (Hacker: col. 7, 43-50) and pin (Hacker: col. 7, 43-50; i.e. alphanumeric passphrases) and tracking and notifying the patient of who accessed the medical information, what was accessed, and when was access taken place (Hacker: col. 7, 66-col. 8, 3). Although Hacker does not explicitly teach who accessed the medical information, it is obvious that who accessed the medical information is a pertinent information and the prior art suggests providing the information of who accessed the medical information.

Hacker does not explicitly teach controlling an authorization and a scope of access to the medical information by the patient according to an assigned role of a user accessing the medical information, by modifying an access control list; and wherein the access control list lists each authorized user and the assigned role of each authorized user.

Mandl teaches:

(3) controlling an authorization and a scope of access to the medical information by the patient according to an assigned role of a user accessing the medical information, by modifying an access control list (Mandl: p. 284, section Confidentiality).

Wherein the access control list lists each authorized user and the assigned role of each authorized user (Mandl: p. 284, section Confidentiality).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings with the motivation of providing a user with managing their own health record and providing a user with a secure data repository of their own medical record (Mandl).

8. As per claim 2, Hacker discloses the method of claim 1, wherein the storage means is a central repository (Hacker: col. 7, lines 21-27).

9. As per claim 3, Hacker discloses the method of claim 1, wherein the means for accessing the medical information is controlled using a universally unique identifier (Hacker: col. 7, lines 60-63).

10. As per claim 4, Hacker discloses the method of claim 1, wherein said controlling step is overridden by a registered emergency provider (Hacker: col. 7, lines 66-67).

11. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker (6,988,075; hereinafter Hacker) in view of Kenneth D Mandl, Peter Szolovits, Isaac S Kohane, David Markwell, and Rhona MacDonald and further in view of Felsher (2002/0010679; hereinafter Felsher).

12. As per claim 16, Hacker and Mandl disclose the method of claim 1, but do not teach wherein the patient is compensated for permitting some of the medical information to be available and used by a research institution.

Felsher teaches wherein the patient is compensated for permitting some of the medical information to be available and used by a research institution (Felsher: para. 310).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings with the motivation of providing a medical history that may be of critical importance to the future of healthcare (Felsher: para. 7) and the need for privacy and security of a patient's information (Felsher: para. 17).

13. As per claim 17, Hacker and Mandl disclose the method of claim 1, but do not teach wherein during a doctor visit the patient provides access to the medical information for a time period long enough to support the visit at which point the access times out.

Felsher teaches wherein during a doctor visit the patient provides access to the medical information for a time period long enough to support the visit at which point the access times out (Felsher: para. 354).

The motivation to combine the teachings is the same as claim 16.

14. As per claim 18, Hacker and Snowden disclose the method of claim 1, but do not teach wherein access to the patient's medical information expires when a physician logs into another room/appointment.

Felsher teaches wherein access to the patient's medical information expires when a physician logs into another room/appointment (Felsher: para. 359; i.e. second communication session).

The motivation to combine the teachings is the same as claim 16.

### ***Response to Arguments***

15. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

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16. Applicant argues that Hacker does not teach tracking and notifying the patient of who accessed the medical information, what was accessed, and when was the access taken place. Examiner disagrees. Hacker teaches notification to the patient to what information was released, including time, location, pages accessed, etc.; therefore a tracking of who accessed the medical information, what was accessed, and when was the access taken place is being done.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Sheetal R. Rangrej/

Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626